

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION**

BETTY ANN BURKS, <u>et</u> al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	No. 2:06-CV-1081-MEF
	:	
EQUITY GROUP EUFAULA	:	
DIVISION LLC,	:	
	:	
Defendant.	:	

MOTION TO DECERTIFY CLASS AND SEVER CLAIMS

Defendant, Equity Group-Eufaula Division LLC ("Equity"), by its counsel, comes and files this Motion to Decertify Class and Sever Claims for the following reasons:

1. Decertification of the class is appropriate given (1) the widely divergent pay practices between the departments within the putative class; (2) the varying claims for relief beyond and unrelated to that encompassed by the donning and doffing claims set forth in plaintiffs' First Amended Complaint; (3) the widely varying items of sanitary clothing required to be worn; and, (4) the disorderly putative class that contains plaintiffs who, by definition, are outside the class, not covered by a collective bargaining agreement or never even worked for Equity.

2. For the same reasons supporting decertification, the named plaintiffs' claims should be severed as they are improperly joined and lack any common transaction or occurrence sufficient to comply with the permissive joinder standards of Rule 20(a), F.R.C.P.

3. Equity moves for decertification and severance for

these reasons, and for the reasons set forth in the supporting Memorandum of Law which is being filed contemporaneously and is incorporated by reference.

WHEREFORE, defendant requests that its Motion to Decertify Class and Sever Claims be granted.

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 EQUITY GROUP EUFAULA :
 DIVISION LLC, :
 :
 Defendant. :

CERTIFICATE OF SERVICE

The undersigned counsel for Equity Group Eufaula Division LLC certifies that true and correct copies of the Motion to Decertify Class and Sever Claims and supporting Memorandum of Law in Support of Motion to Decertify Class and Sever Claims were filed and served electronically with the Clerk of Court and also was served by depositing true and correct copies in the United States Mail, first class postage prepaid, on August 1, 2008, and addressed as follows:

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	:	
Defendant.	:	

O R D E R

AND NOW, this _____ day of _____, 2008, upon consideration of Defendant's Motion to Decertify Class and Sever Claims, and supporting Memorandum of Law, as well as plaintiffs' Response, it is ORDERED and DECREED that the Motion to Decertify Class and Sever Claims is granted.

BY THE COURT:

Honorable Mark E. Fuller, Chief Judge